

Department of the Treasury

Industry Circular



Internal Revenue Service

Alcohol, Tobacco and Firearms Division

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TAX-EXEMPT SALES OF TOBACCO PRODUCTS AT INTERNATIONAL AIRPORTS

Proprietors of tobacco export warehouses:

A recently approved revenue procedure sets forth certain acceptable procedures you will probably find relevant if you sell tax-exempt tobacco products at international airports. The substance of that revenue procedure, which will soon be published in the Internal Revenue Bulletin, is printed as an enclosure to this industry circular.

Please note that one feature of any acceptable procedure for sale to international airline passengers is that the tobacco products may not be given to passengers until the aircraft has left the territorial limits of the United States. This provision is essential to assure proper implementation of section 5704 of the Internal Revenue Code, which authorizes these tax-exempt sales and provides that the products are "for consumption beyond the jurisdiction of the internal revenue laws of the United States."

Another provision to be noted is that sales may not be made tax-exempt under section 5704 of the Code to passengers en route between the geographically separate parts of the United States (contiguous 48 States and the District of Columbia, Alaska, and Hawaii). Commercial aircraft flying between these different parts of the United States are eligible to lade tax-exempt tobacco products, but only for use as aircraft supplies while outside the territorial limits of the United States.

Our Inspectors will soon be visiting most export warehouses operating at international airports to assure they are operating within the guidelines discussed in the revenue procedure and this industry circular. Therefore, if you make sales to international airlines or to airline passengers leaving the United States you should review your procedures to make sure they are fully in compliance with the regulations in 26 CFR Part 290 or an alternate procedure approved by the Director, Alcohol, Tobacco and Firearms Division, as prescribed in 26 CFR 290.72.

If your operations are not so conducted you should begin complying with the regulations immediately, or contact the office of your Assistant Regional Commissioner (Alcohol, Tobacco and Firearms) for his advice or approval of an operation consistent with the enclosed revenue procedure.

Ralph H. Alkire

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Alcohol, Tobacco and Firearms Division

Revenue Procedure--Enclosure To Industry Circular 70-37

SECTION 1. PURPOSE.

This revenue procedure expresses procedures which may be followed by proprietors of export warehouses at international airports when tobacco articles are sold to passengers of aircraft departing for destinations outside the United States.

SECTION 2. BACKGROUND.

Section 5704 of the Internal Revenue Code of 1954 provides that an export warehouse proprietor may remove tobacco articles, without payment of tax, for consumption beyond the jurisdiction of the internal revenue laws of the United States. Regulations in 26 CFR 290.198 require that the export warehouse proprietor prepare a notice of removal, Form 2150, for each shipment removed from his warehouse. In connection with sales to airline passengers this requires that a separate Form 2150 be prepared for each shipment of tobacco articles sold to each passenger. It is reasonable that an alternate procedure should be established which would be in compliance with the intent of regulations and afford equivalent security to the revenue, but would not require a separate Form 2150 for each passenger. Therefore, after review and concurrence of his assistant regional commissioner (alcohol, tobacco and firearms), an export warehouse proprietor making such removals may follow the procedures in Section 3 below which the Director, Alcohol, Tobacco and Firearms Division, finds in compliance with the intent of law and regulations.

SECTION 3. ACCEPTABLE PROCEDURES.

01. Sales slips and lading receipts. The export warehouse proprietor will prepare a separate sales slip for each sale of tobacco articles. The minimum information which must be included on the sales slip is a pre-printed serial number; a list of the articles sold; the name of the passenger; and identity of the flight by airline name (or abbreviation), flight number, and date. A lading receipt on which all sales slips for a flight are itemized will be prepared by the proprietor and presented to the purser or other appropriate aircrew member, who will certify that the tobacco articles were received on board and that delivery to the passengers will not be made until the aircraft has left the territorial limits of the United States. The lading receipt may or may not be certified by a customs officer, depending on local Customs' requirements.

The needs of Customs and the airline companies will be considered in determining the numbers of copies and disposition of sales tickets and lading receipts.

02. Other responsibilities of proprietor. The purchaser must be clearly informed that the tobacco articles are for consumption outside the United States and if returned to the United States must be declared to Customs and are subject to duty or tax. This may be accomplished by a conspicuous statement on a copy of the sales slip furnished the passenger, or by some other method acceptable to Customs and the assistant regional commissioner (alcohol, tobacco and firearms). If a flight does not depart or is diverted or returns without reaching a destination outside the United States the proprietor is responsible for recovering and returning the unexported tobacco articles to his warehouse.

03. Notice of Removal, Form 2150. Notice of removal, Form 2150, may be prepared daily, weekly, or semimonthly on the basis of the lading receipts executed during the removal period. The frequency of preparation of Forms 2150 will be dictated by the volume of operations and administrative convenience to all concerned. If the Form 2150 is prepared weekly and any week overlaps two months, a separate Form 2150 must be filed for removals during that portion of the week falling in each of the months. The Form 2150 will be prepared in triplicate and presented to Customs for execution of the certificate of export. The original completed form will be immediately submitted to the assistant regional commissioner (alcohol, tobacco and firearms), one copy will be furnished to Customs, and one copy will be retained by the proprietor.

04. Acceptance of procedures to Customs and assistant regional commissioner (alcohol, tobacco and firearms). Procedures which an export warehouse proprietor wishes to establish in accordance with the foregoing criteria must be acceptable to the appropriate local customs officer as evidenced by his written consent. Specifics of the proposed procedures must also be approved in all respects by the assistant regional commissioner (alcohol, tobacco and firearms) before the proprietor begins operating under the procedures.

SECTION 4. ALTERNATE PROCEDURES.

The export warehouse proprietor may not use procedures other than those specifically set forth in 26 CFR Part 290 or conforming to this revenue procedure unless they are approved by the Director, Alcohol, Tobacco and Firearms Division, as provided in 26 CFR 290.72 relating to authorizations for alternate methods or procedures. Those proprietors who already have such specific authorizations may continue to operate as approved therein.

SECTION 5. INQUIRIES.

Inquiries concerning this Revenue Procedure should refer to its number and be addressed to the office of the appropriate assistant regional commissioner (alcohol, tobacco and firearms).